



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,583	08/29/2003	Daniel P. Topp	TOPP-P7.1-US	8842

21616 7590 06/05/2007

LAW OFFICES OF MARK A. GARZIA, P.C.
2058 CHICHESTER AVE
BOOTHWYN, PA 19061

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 06/05/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10651583	8/29/2003	TOPP, DANIEL P.	TOPP-P7.1-US

LAW OFFICES OF MARK A. GARZIA, P.C.
2058 CHICHESTER AVE
BOOTHWYN, PA 19061

EXAMINER

David J. Parsley

ART UNIT	PAPER
3643	20070530

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Defective Appeal Brief

1. The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number, and to the drawing, if any, by reference characters; and/or does not identify the structure, material, or acts described in the specification as corresponding to each claimed function for every means plus function and step plus function for each independent claim involved in the appeal and for each dependent claim argued separately by reference to the specification by page and line number, and to the drawing, if any, by reference characters, as required by 37 CFR 41.37(c)(1)(v). Claims 32 and 44 contain means plus function language and appellant has not provided a description of the corresponding structure of the means plus function language in the specification including paragraph number, page and line number or drawing reference numerals in the brief.

2. The brief does not contain any statement to where the evidence (37 CFR 1.132 affidavit by Helmes) in the evidence appendix was entered into the record and when the evidence found in the evidence appendix was considered by the examiner. Further, appellant provides evidence in the arguments section of the brief which is not found in the evidence appendix and does not disclose where this evidence was entered into the record and when the examiner considered this evidence, see 37 CFR 41.37. The evidence not found in appellant's evidence appendix is the HVAC Fundamentals Volume I – Heating Systems, Furnaces, and Boilers 4th edition each page and chapter reference, Uniform Mechanical Code 2000, sections and the Standard Handbook for

Art Unit: 3643

Mechanical Engineers. If any of this evidence was not previously disclosed prior to filing the appeal brief dated 9-18-06 than it must not be included in the appeal brief, see 37 CFR 41.33 and 37 CFR 41.37.

3. Appellant is required to comply with provisions of 37 CFR 41.37(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication. Extensions of time may be granted under 37 CFR 1.136.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/651,583

Page 4

Art Unit: 3643

A handwritten signature in black ink, appearing to read 'D. Parsley', with a long, sweeping horizontal stroke extending to the right.

David Parsley
Primary Examiner
Art Unit 3643